THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.27954 OF 2005

DATE: 26th JUNE 2006

Between:

Gundra Prakasam,
Wife of G.Jogaiah, major,
Resident of Muchintala
Village, Penuganchiprolu (M),
Krishna District.

…. Petitioner.

And

1. The Mandal Revenue Officer,
   Penuganchiprolu village and
   Mandal, Krishna District
   and 2 others.

…. Respondents.

* * *

ORDER:

The complaint of the petitioner is that he is a fair price shop dealer of shop No.6 of Muchintala village of Penuganchiprolu Mandal, Krishna District. He had been holding authorization for 19 years prior to the filing of the writ petition. He has been performing his duties as fair price shop dealer to the utmost satisfaction of one and all. There was no complaint of any nature against him during past 19 years. However, since his daughter Vijayalakshmi suffered with Encephalitis (brain fever) and she had to be taken care on emergency basis, he had intimated the same to the Mandal Revenue Officer, Penuganchiprolu Mandal, on

30.6.1997 itself stating that he requires six months leave. However, a show cause notice was issued on 24.9.1998 asking the petitioner to explain as to why the authorization held by him should not be cancelled on the ground that he failed to lift essential commodities which were allotted to him from the month of July 1997 onwards and caused much inconvenience to the card holders. The petitioner submitted his explanation dated 18.12.1998 stating that his daughter was affected with brain fever, therefore, he requires some leave and he intimated the same on 30th June 1997 to the concerned Mandal Revenue Officer and that his daughter was fully recovered and he may be re-appointed as fair price shop dealer. He further states that he is a poor person and he belongs to scheduled caste community. Petitioner also filed representations before the Revenue Divisional Officer and Joint Collector to take appropriate action immediately and permit him to run fair price shop. Neither any orders in furtherance of show cause notice dated 24.9.1998 were passed nor further action was initiated in that regard nor the petitioner was restored to his position as a fair price shop dealer. Various representations filed from time to time before the Joint Collector did not yield any results.

2. On 07.02.2006, after filing of the writ petition, the Revenue Divisional Officer, Vijayawada, on receipt of a letter from the Joint Collector, Krishna District, dated 09.12.2005, addressed a letter to the Joint Collector, Krishna, stating that the petitioner left the village without informing the authorities and caused much inconvenience to the cardholders, therefore, under the above

circumstances G.Joseph, son of Pullaiah, Mutchintala village, was appointed as fair price shop dealer purely on temporary basis on 24.02.2000 in place of the petitioner. The authorization of the petitioner was valid only upto 31.03.1996 and the petitioner failed to renew the authorization thereafter (It seems to be not correct as per the material papers filed by the petitioner. Dealership of the petitioner was renewed upto 31.3.1998). However, it is stated that if an application for renewal of the authorization is not made within one month after expiry of its validity, the authorization shall cease to be valid. Petitioner submitted representation on 19.12.2004 stating that due to his daughter's ill health, he had taken away her daughter to various hospitals, and hence, filed DDs due to financial troubles and requested to re-allot his shop. The Mandal Revenue Officer, Penuganchiprolu, was requested to submit his report on the representation filed by the petitioner. The Mandal Revenue Officer seems to have submitted a report stating that petitioner is not residing in the village for the last 7 years and doing cable connection business at Machilipatnam and submitted certificate issued by the Assisdtant Secretary, Mutchintala. Under those circumstances, the request of the petitioner for re-allotment of fair price shop was not considered as the validity of fair price shop authorization ceased and the dealer is not residing in the village.

3. This is not a case where the dealership of the petitioner was neither cancelled nor suspended. Though a show cause notice was issued to the petitioner on 24.9.1998, the petitioner's consistent explanation and representations reflect that his

daughter was unwell and affected with brain fever, therefore, he had to take her to various hospitals, and thus, he was not available and did not lift the stock from the month of July 1997. However, no enquiry of any kind was made thereafter till date on the representations filed by the petitioner before the Collector. The Revenue Divisional Officer seems to have addressed a letter to the Joint Collector, Krishna District, on 07.02.2006, but till date no action is taken and no proceedings are passed or communicated to the petitioner.

4. In view of the above, the action of the respondents in not considering allotment of fair price shop in favour of the petitioner is arbitrary and illegal. The petitioner is directed to immediately file an application for renewal of his fair price shop dealership and on such application being filed, the respondent authorities shall consider the same and allot monthly stocks to the petitioner as per law.

5. The writ petition is accordingly allowed. No costs.

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C.V.RAMULU, J.

Date: 26th June 2006.
BSB